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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,095	10/01/2001	Francois Balay	Balay 2-1	4702

7590

02/02/2007

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 02/02/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

09/966,095

Applicant(s)

BALAY ET AL.

Examiner

Khanh Dang

Art Unit

2111

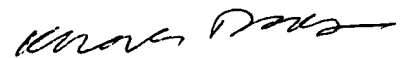
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 28 November 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Attached.



**Khanh Dang
Primary Examiner**

Defective Brief

Item 4:

The brief does not provide a complete and concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters.

Item 6:

The brief does not include a correct and concise statement of each ground of rejection presented for review. In particular, with regard to section (A), Appellant cannot include his own interpretation into the ground of rejection.

Item 7:

The brief contains arguments with reference to a document (Lattice ORT4622) cited by the Information Disclosure Statement (IDS) filed together with Applicant's Appeal Brief.

Without commenting to the validity of Applicant's assertion regarding the Lattice ORT 4622, Applicant MUST remove any reference to the Lattice ORT4622 presented in section (7) (Arguments) of the Brief. Reference to un-entered and un-considered IDS is not permitted in the brief. The Lattice ORT 4622 in the IDS is not a

part of the record, and further is not even material to the appeal brief, since the publication date of the Lattice ORT 4622 (October 2003) is well after the filing data of this Application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dang whose telephone number is 571-272-3626. The examiner can normally be reached on Monday-Friday from 9:AM to 5:PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart, can be reached on 571-272-3632. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khanh Dang
Primary Examiner